

## New Zealand.



### ANALYSIS.

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### 1906, No. 37.—*Local.*

- Title.** AN ACT to give Power to the Napier Harbour Board to carry out certain Harbour Works and Improvements, and to give Borrowing-powers for carrying out such Works. [29th October, 1906.]
- Preamble.** WHEREAS the Napier Harbour Board is a duly constituted Board under and by virtue of "The Napier Harbour Board Act, 1875": And whereas by "The Napier Harbour Board Empowering and Loan Act, 1884," the Napier Harbour Board was authorised to raise money for the purpose of constructing and carrying out certain harbour-works mentioned in section six thereof, and for that purpose to issue debentures for any sum not exceeding in the aggregate the sum of three hundred thousand pounds, and the Napier Harbour Board was thereby empowered to make and levy a rate upon the rateable property in the Napier Harbour Rating District by such Act constituted, the proceeds whereof should be applied towards payment of the annual charges to accrue in respect of the loan thereby raised, and to provide for a sinking fund as therein mentioned: And whereas the said Board, in pursuance of the power so vested in it, raised the sum of three hundred thousand pounds and issued debentures for the same: And whereas by "The Napier Harbour Board Empowering Act, 1885," the said Board was empowered to pay off the sum of seventy-five thousand pounds borrowed by the said Board on the security of debentures made and given under and in pursuance of the powers contained in "The Napier Harbour Board Act, 1875," out of the said sum of three hundred thousand pounds borrowed under the provisions of "The

Napier Harbour Board Empowering and Loan Act, 1884": And whereas the sum of seventy-five thousand pounds has been paid by the said Board out of the said sum of three hundred thousand pounds raised by the said Board under the provisions of "The Napier Harbour Board Empowering and Loan Act, 1884": And whereas by "The Napier Harbour Board Loan Act, 1892," the Napier Harbour Board was authorised to borrow in addition to the sum authorised by any previous Act, subject to the provisions of "The Harbours Act, 1878," and to the provisions of the now reciting Act, any sum of money not exceeding two hundred thousand pounds at any rate of interest not exceeding six pounds per centum per annum, to be applied in and about the construction and carrying-out of the works mentioned in section five of the now reciting Act, and for that purpose to issue debentures for any sums of money not exceeding in the aggregate the sum of two hundred thousand pounds at any rate of interest not exceeding six pounds per centum per annum, and the said Board was thereby empowered to make and levy a rate upon the rateable property in the said Napier Harbour Rating District, the proceeds whereof should be applied towards payment of the annual charges to accrue in respect of the loan thereby raised, and to provide for a sinking fund as therein mentioned: And whereas the said Board, in pursuance of the powers so vested in it, has raised the said sum of two hundred thousand pounds and issued debentures for the same: And whereas the total indebtedness of the Board in respect of the loans raised under "The Napier Harbour Board Empowering and Loan Act, 1884," and "The Napier Harbour Board Loan Act, 1892," is five hundred thousand pounds, without taking into account the sinking funds against such loans, amounting to over seventy thousand pounds: And whereas the growing trade and commerce of the Provincial District of Hawke's Bay requires further and better harbour and wharfage accommodation than exists at the present time, and to that end that harbour-improvement works already authorised should be completed: And whereas the said Board is desirous of providing such further and better harbour and wharfage accommodation, and of giving proper access to and from the works already constructed under "The Napier Harbour Board Empowering and Loan Act, 1884," and "The Napier Harbour Board Loan Act, 1892," or hereafter to be constructed, and of completing and constructing other works for the improvement of the Port of Napier, and in order to raise money for such purposes is desirous of borrowing two hundred thousand pounds:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Napier Harbour Board Loan Act, 1906." Short Title.

2. This Act shall be deemed to be a special Act within the meaning of "The Harbours Act, 1878," which Act is hereby incorporated with this Act. Special Act.

3. In this Act the expression—

"The Board" means the Napier Harbour Board as hereinafter provided: Interpretation.

“The Chairman” means the Chairman of the Board for the time being :

“The Treasurer” means the Treasurer of the Board for the time being :

“The district” means the Napier Harbour Rating District as constituted and defined by “The Napier Harbour Board Empowering and Loan Act, 1884,” and shall include all existing boroughs and Town Board districts which at the time of the passing of such Act may have formed part of any of the ridings set out in the Fourth Schedule thereto.

Alteration in constitution of Board.

4. (1.) The number of members of the Board shall hereafter be sixteen, being an increase of three members.

(2.) Such additional members shall be elected as follows :—

One member by the Hastings Borough Council ;

One member by the Waipawa and Patangata County Councils acting conjointly ; and

One member by the Hawke’s Bay County Council.

(3.) Such additional members shall be elected on the day appointed for the next election of members of the Board.

(4.) The entity of the Corporation shall not be affected by such alteration.

(5.) The Second Schedule of “The Harbours Act, 1878,” is hereby modified accordingly.

Power to construct harbour-works.

5. It shall be lawful for the Board, subject to the provisions of “The Harbours Act, 1878,” to construct such works as are defined by the word “harbour-works” in the interpretation clause of such Act as shall be by the Board considered necessary for the requirements of the breakwater portion of the Harbour of Napier ; and also to erect and construct all such cranes, sheds, and works for the improvement of the said harbour as shall be judged necessary and proper by the Board for the safety, convenience, or reception of vessels resorting to the said harbour, and for the more convenient loading and unloading of such vessels, or for the safety and protection of any works constructed or proposed to be constructed by the Board, and for providing proper access to and from any such works.

Power to borrow.

6. The Board shall have power to borrow, in addition to the sums authorised by any previous Acts, subject to the provisions of “The Harbours Act, 1878,” and to the provisions of this Act, any sum not exceeding two hundred thousand pounds at any rate of interest not exceeding five pounds per centum per annum, to be applied in and about the construction and carrying-out of the works mentioned in section five of this Act.

Power to issue debentures.

7. (1.) It shall be lawful for the Board from time to time to issue debentures for any sums of money not being less than twenty pounds nor more than one thousand pounds, and not exceeding in the aggregate the sum of two hundred thousand pounds, repayable on the first day of January, one thousand nine hundred and forty-two ; but no money shall be borrowed under the authority of this Act which shall produce to the purchaser a higher rate of interest than five pounds per centum per annum.

(2.) Such moneys may be raised in the manner prescribed by “The Local Bodies’ Loans Act, 1901” ; and the provisions of that

Act shall apply as if the Board were a local authority and the said works were public works within the meaning of Part I of that Act.

8. On any poll taken on any proposal to raise money under this Act every ratepayer in every borough, Town Board district, or riding in the district shall be entitled to a vote in every such borough, Town Board district, or riding according to the following scale:—

Number of votes  
ratepayers entitled  
to.

- (a.) If the capital value of his rateable property, whether in one or more tenements, in any borough, Town Board district, or road or outlying district forming part of a riding in the district, as appearing in the district valuation roll prepared by the Valuer-General in accordance with "The Government Valuation of Land Act, 1896," and the amendments thereof for the time being in force, is not more than one thousand pounds he shall have one vote:
- (b.) If such capital value is more than one thousand pounds but not more than two thousand pounds he shall have two votes:
- (c.) If such capital value is more than two thousand pounds he shall have three votes.

9. The Board after the passing of this Act shall, if the resolution in favour of any proposal as aforesaid be carried, make and levy a rate in the proportions in the different parts of the district hereinafter mentioned upon all rateable property in the Napier Harbour Rating District; and the proceeds of such rate shall be applied towards payment of the annual charges to accrue in respect of any loans to be raised under this Act and to provide for the sinking fund hereinbefore mentioned.

Board may rate  
district to provide  
interest and sinking  
fund.

10. The amount to be levied by the Board in each year shall not exceed such amount as is required to provide for the payment of the interest on the aggregate amount for which debentures shall at that time be issued, and in addition one pound per centum per annum on such aggregate amount, to be appropriated for the purposes of the sinking fund hereinbefore mentioned, after taking into account the amount (if any) which may be estimated as available for the current year from the revenue of the Board, having regard to all existing charges on such revenue, towards payment of interest and sinking fund on the loan hereby authorised to be made.

Amount of rate.

11. The rate to be levied under this Act on the rateable property in the Borough of Napier shall be double the rate to be levied on the rateable property in the remainder of the district.

Proportions of rate.

12. No rate made under this Act shall be capable of being set aside or of being quashed by any proceeding of any Court or otherwise, and no defect in the same shall be set up as a defence to any action which may be brought to recover the same.

No rate to be  
quashed.

13. The capital value in all parts of the district where rating on the basis of the unimproved value is not in force, and the unimproved value in all parts of the district where rating on the basis of the unimproved value is in force, appearing in the district valuation roll prepared by the Valuer-General in accordance with "The Government Valuation of Land Act, 1896," and the amendments thereof, as regards all rateable property in the district, shall be the rateable value of all such properties for the purposes of this Act.

Capital value to be  
rateable value.

Board to have power of local bodies for levying rates.

14. For the purpose of making, levying, and recovering the rates hereby authorised to be made and levied, the Board shall have and may exercise all the powers of making, levying, and recovering rates in the boroughs, Town Board districts, and each riding within the district, which any local body having rating-powers within such boroughs, Town Board districts, or riding shall or may have under the law for the time being in force regulating the recovery of the rates therein respectively.

In case of default by Board, Supreme Court may appoint a Receiver.

15. When and so often as the Board shall fail to pay at the proper time and place for so paying either the principal sum secured by the debentures to be issued under this Act or the coupons for interest payable thereon, then immediately on default being made any person to whom any such sum is owing may apply *ex parte* by petition in a summary way to a Judge of the Supreme Court for relief under this Act, and the Judge may, if satisfied of the truth of the matters alleged in such petition, appoint upon such terms as to security and remuneration as he shall think fit a Receiver of the rate hereby authorised to be levied.

Rate to vest in Receiver.

16. From and after the date of such appointment, and upon its being advertised by publication in the *Gazette* and in the newspapers circulating in the district for such time as the said Judge shall order, the said rate shall vest in the Receiver and shall cease to be vested in the Board.

Powers of Board exercisable by Receiver.

17. All powers vested in the Board for the making, levying, and recovering the said rate shall, after the appointment of the Receiver, and upon its being publicly notified in such manner as directed by the previous section of this Act, cease to be exercised by the Board and shall be exercised by the Receiver.

Moneys received by Receiver, how applied.

18. All the moneys received by the Receiver shall be applied—  
 (a.) In payment of the costs of the application and order :  
 (b.) In payment of the Receiver's remuneration, to be fixed as aforesaid :  
 (c.) In payment *pro rata* of the sums then overdue by the Board which are secured by the said rate :  
 (d.) The residue (if any) to be paid to the Board :  
 and the Receiver shall account for all moneys received by him in such manner as the Judge shall direct.

When Receiver's powers cease.

19. When all sums overdue are paid, or at any time on the application of the Board, a Judge of the Supreme Court may order the powers of the Receiver to cease ; and he shall thereupon pay over to the Board any moneys then in his hands, and the Board shall again be capable of exercising the powers of which the appointment of Receiver had deprived them.

Priority of debentures.

20. The debentures to be issued under this Act, and the interest thereon, shall be a first charge on the rates hereby authorised to be levied and on the revenue of the Board, subject, however, with regard to such revenue to the priority of all existing charges thereon, whether by way of debentures or otherwise, and including the annual charges in respect of the loans raised under "The Napier Harbour Board Empowering and Loan Act, 1884," and under "The Napier Harbour Board Loan Act, 1892," and also all expenditure therefrom for works that may be deemed necessary by the Board.

21. The provisions of "The Napier Harbour Board Further Empowering Act, 1892," shall in all respects where applicable and *mutatis mutandis* apply also to the making, levying, and collection of rates in the district authorised by this Act.

"The Napier Harbour Board Further Empowering Act, 1892," to apply.

## SCHEDULES.

Schedules.

### FIRST SCHEDULE.

NAPIER HARBOUR BOARD LOAN, 1906, OF £200,000.

No. . . . . Debenture for £ . . . . . Payable in . . . . .

ISSUED by the Napier Harbour Board under an Act of the General Assembly of New Zealand intituled "The Napier Harbour Board Loan Act, 1906." Secured on the rates of the Napier Harbour Rating District as defined by "The Napier Harbour Board Loan Act, 1906," and the surplus revenue of the Napier Harbour Board funds (if any) after providing for all previously existing charges thereon.

N.B.—The holder of this debenture has no claim in respect thereof on the public revenues of New Zealand or on the General Government thereof.

On the presentation of this debenture at . . . . . on or after the . . . . . day of . . . . . the bearer will be entitled to receive £ . . . . ., and in the meantime interest thereon at the rate of £ . . . . . per centum per annum by half-yearly payments. Interest on this debenture will cease after the day when the payment falls due, unless default be made in payment.

Issued under the seal of the Napier Harbour Board.

. . . . ., Chairman of the Board.  
. . . . ., Treasurer of the Board.

### SECOND SCHEDULE.

DEBENTURE No. . . . . of the Harbour Board of Napier, New Zealand, issued under "The Napier Harbour Board Loan Act, 1906," secured on the rates of the Napier Harbour Rating District as defined by "The Napier Harbour Board Loan Act, 1906," and the surplus revenue of the Napier Harbour Board funds (if any) after providing for all previously existing charges thereon.

On presentation of this coupon at . . . . . on or after the . . . . . day of . . . . . the bearer will be entitled to receive £ . . . . .

. . . . ., Chairman of the Board.  
. . . . ., Treasurer of the Board.

### THIRD SCHEDULE.

FORM OF VOTING-PAPER FOR SPECIAL LOAN.

PROPOSAL to raise a special loan upon which a poll will be taken on the . . . . . day of . . . . ., 19 . . . . .

(Insert notice required by section 12.)

- (1.) I vote for the above proposal.
- (2.) I vote against the above proposal.